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	APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
	10/643,699	08/18/2003	Pascal Druzgala	04-1028-B	5094	
	20306 75	590 11/03/2005		EXAMINER		
	MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP			KANTAMNENI, SHOBHA		
	300 S. WACKER DRIVE 32ND FLOOR CHICAGO, IL 60606			ART UNIT	PAPER NUMBER	
				1617		

DATE MAILED: 11/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief

Application No.	Applicant(s)		
10/643,699	DRUZGALA ET AL.		
Examiner	Art Unit		
Shobha Kantamneni	1617		

	Shobha Kantamneni	1617				
The MAILING DATE of this communication appear	ars on the cover sheet with the	orrespondence add	ress			
THE REPLY FILED 03 October 2005 FAILS TO PLACE THIS A	PPLICATION IN CONDITION FOR	R ALLOWANCE.				
1. The reply was filed after a final rejection, but prior to or on this application, applicant must timely file one of the follow places the application in condition for allowance; (2) a Not a Request for Continued Examination (RCE) in compliance time periods:	the same day as filing a Notice of ving replies: (1) an amendment, af tice of Appeal (with appeal fee) in e with 37 CFR 1.114. The reply m	Appeal. To avoid aba fidavit, or other eviden compliance with 37 Cl	nce, which FR 41.31; or (3)			
 a)						
Examiner Note: If box 1 is checked, check either box (a) or (TWO MONTHS OF THE FINAL REJECTION. See MPEP 70 Extensions of time may be obtained under 37 CFR 1.136(a). The date have been filled is the date for purposes of determining the period of ext under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the set forth in (b) above, if checked. Any reply received by the Office later may reduce any earned patent term adjustment. See 37 CFR 1.704(b).	06.07(f). on which the petition under 37 CFR 1. ension and the corresponding amount hortened statutory period for reply orig than three months after the mailing da	136(a) and the appropria of the fee. The appropri inally set in the final Offi	te extension fee iate extension fee ce action; or (2) as			
NOTICE OF APPEAL	See	Ch. d M. C. A				
 The Notice of Appeal was filed on A brief in comp filing the Notice of Appeal (37 CFR 41.37(a)), or any exter a Notice of Appeal has been filed, any reply must be filed AMENDMENTS 	nsion thereof (37 CFR 41.37(e)), to	avoid dismissal of th	e appeal. Since			
3. The proposed amendment(s) filed after a final rejection, to (a) They raise new issues that would require further cor (b) They raise the issue of new matter (see NOTE below	nsideration and/or search (see NO		ecause			
 (c) ☐ They are not deemed to place the application in bett appeal; and/or (d) ☐ They present additional claims without canceling a content of the present additional claims without canceling a content of the present additional claims without canceling a content of the present additional claims without canceling a content of the present additional claims without canceling a content of the present o			the issues for			
NOTE: (See 37 CFR 1.116 and 41.33(a)).	3 ,,					
 4. The amendments are not in compliance with 37 CFR 1.12 5. Applicant's reply has overcome the following rejection(s): 	•					
Newly proposed or amended claim(s) would be all non-allowable claim(s).	•	·	•			
7. For purposes of appeal, the proposed amendment(s): a) [how the new or amended claims would be rejected is prov The status of the claim(s) is (or will be) as follows: Claim(s) allowed: <u>NONE</u> . Claim(s) objected to: <u>NONE</u> . Claim(s) rejected: <u>23-29 and 32-34</u> . Claim(s) withdrawn from consideration: <u>NONE</u> .	☑ will not be entered, or b) □ wi rided below or appended.	II be entered and an e	xplanation of			
AFFIDAVIT OR OTHER EVIDENCE						
8. The affidavit or other evidence filed after a final action, but because applicant failed to provide a showing of good and was not earlier presented. See 37 CFR 1.116(e).	t before or on the date of filing a N I sufficient reasons why the affidat	otice of Appeal will <u>no</u> /it or other evidence is	t be entered necessary and			
9. The affidavit or other evidence filed after the date of filing a entered because the affidavit or other evidence failed to o showing a good and sufficient reasons why it is necessary	vercome <u>all</u> rejections under appe	al and/or appellant fai	Is to provide a			
10. ☐ The affidavit or other evidence is entered. An explanation REQUEST FOR RECONSIDERATION/OTHER	of the status of the claims after e	ntry is below or attach	ied.			
 The request for reconsideration has been considered but See page 2. 			ice because:			
12. Note the attached Information Disclosure Statement(s). (13. Other:	PTO/SB/08 or PTO-1449) Paper N	No(s)	31/05			
	S	HAQUA A. JIANG, PH.I PRIMARY EXAMINER	D.			

U.S. Patent and Trademark Office PTOL-303 (Rev. 7-05) Applicant's proposed amended claim 34 herein, change limitations and scope of the claim, inserting new limitations into the independent claim 34, present new issue for consideration by the Examiner.

Therefore, the proposed amendment After Final will not be entered.

The rejection of claims 23-29, 32, 33, and 34 (in part) under 35 U.S.C. 112, first paragraph is MAINTAINED for reasons as discussed in the Final Office Action dated 08/01/2005, and those found below

Applicant argues that "As analogs of mibefradil, they are expected to have biological activites similar to those of mibefradil. Therefore, since mibefradil is a known calcium channel inhibitor, it stands to reason that the currently claimed compounds are calcium channel inhibitors." This argument is not persausive because compounds in claim 23, will have different physiochemical properties. The compound of structure in claim 23, with X = (CH2)6, and R1 = C6 alkyl will have different physical propedies such as lipophilicity, binding abilities, hydrolyzability etc. than a compound with X. = O, and R1 = C1 alkyl substituted with OH or NH2, and thus will have different calcium blocking ability or maybe lack any calcium blocking ability. In the instant case, the claimed invention is highly unpredictable because the claimed compounds represented by structures in claims would not only have different calcium channel blocking ability or lack calcium channel blocking ability, but also different abilities toward enzymatic hydrolysis.

Applicant remarks that "In fact, the Office, in the office action mailed Febraury 8, 2005, stated that the specification was enabling for calcium channel blocking compounds of structures shown in Figures 1-9 of the specification." These remarks have been considered, and the examiner would like to make it clear that in the office action mailed on Febraury 8, 2005, two 112, first paragraph rejections were made. The rejection that applicant is refering to was made for claims 22, 32, and 33 for the scope of enablement for the compounds as it was not clear what compounds were claimed with respect to the claimed characteristics.

Rejections Based on 35 U.S.C 102(b):

Rejection of claim 34 under 35 U.S.C. 102(b) as being anticipated by Brance et al. (US 4,808,605) is MAINTAINED. Examiner acknowledges the applicant's remarks that R3 should be "lower-alkoxy-lower-alkylcarbonyloxy" in the office action dated 08/01/2005.